

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Marke T. Manley, Jr.,)	
<i>on behalf of</i>)	
Marke T. Manley (Deceased))	
)	
Plaintiff,)	
)	Civil Action No. 6:15-530-JMC
v.)	
)	ORDER AND OPINION
Carolyn W. Colvin,)	
Acting Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	
_____)	

This matter is before the court for review of the magistrate judge's Report and Recommendation ("Report") (ECF No. 18), filed September 8, 2015, regarding the Acting Commissioner Carolyn W. Colvin's ("the Acting Commissioner") motion to dismiss (ECF No. 11). On February 4, 2015, Plaintiff Marke T. Manley, Jr. ("Plaintiff") filed the complaint in this case seeking an order from this court to effectuate an administrative judge's April 22, 2014, ruling that his deceased father, Marke T. Manley, was entitled to Disability Insurance Benefits ("DIB") from June 20, 2011, until the date of his death. (ECF No. 1). The Report recommends that the court grant the Acting Commissioner's motion to dismiss because this court lacks subject matter jurisdiction pursuant to 42 U.S.C. § 405. (ECF No. 18 at 7). The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The magistrate judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews*

v. Weber, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the magistrate judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections. Plaintiff did not file any objections to the Report. On September 17, 2015, Plaintiff filed his response to the Report providing notice that Plaintiff does not object to the Report, but maintains his right to contest the merits of the Acting Commissioner’s position upon remand. (ECF No. 19 at 2.) In the absence of objections to the magistrate judge’s Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough and careful review of the record, the court finds the magistrate judge’s Report and Recommendation provides an accurate summary of the facts and law in the instant matter. The court **ACCEPTS** the magistrate judge’s Report (ECF No. 18) and incorporates it herein by reference. For the reasons set out in the Report, the Acting Commissioner’s motion to dismiss is **GRANTED**.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Court Judge

February 2, 2016
Columbia, South Carolina